

Exhibit 4

[Table of Contents](#)UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**TRIAL EXHIBIT 971**

CASE NO. 10-03561 WHA

DATE ENTERED _____

BY _____
DEPUTY CLERK**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549****FORM 10-K**

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended June 30, 2008☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from _____ to _____.

Commission file number 0-15086

SUN MICROSYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State of incorporation)

4150 Network Circle**Santa Clara, CA 95054**(Address of principal executive offices,
including zip code)**94-2805249**

(I.R.S. Employer Identification No.)

(650) 960-1300

(Registrant's telephone number, including area code)

<http://www.sun.com/aboutsun/investor>

(Registrant's url)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class

Common Stock

Name of Each Exchange on Which Registered

The NASDAQ Global Select Market

Securities registered pursuant to Section 12(g) of the Act: **None**Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act of 1933. YES ☒ NO ☐Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"). YES ☐ NO ☒Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. YES ☐ NO ☒

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer" and "large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES ☐ NO ☒

The aggregate market value of the voting stock (Common Stock) held by non-affiliates of the registrant, as of December 28, 2007 (the last business day of registrant's second quarter of fiscal 2008), was approximately \$13 billion based upon the last sale price reported for such date on The NASDAQ Global Select Market. For purposes of this disclosure, shares of Common Stock held by persons who hold more than 5% of the outstanding shares of Common Stock and shares held by officers and directors of the Registrant have been excluded because such persons may be deemed to be affiliates. This determination is not necessarily conclusive.

The number of shares of the registrant's Common Stock (par value \$0.001) outstanding as of August 22, 2008 was 752,953,410.

DOCUMENTS INCORPORATED BY REFERENCE

Parts of the Proxy Statement for the 2008 Annual Meeting of Stockholders are incorporated by reference into Items 10, 11, 12, 13 and 14 hereof.

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Sun Microsystems, Inc. (NASDAQ: JAVA) provides network computing infrastructure solutions that drive global network participation through shared innovation, community development and open source leadership. Guided by a singular vision, “The Network is the Computer™”, we provide a diversity of software, systems, storage, services and microelectronics that power everything from consumer electronics, to developer tools and the world’s most powerful data centers.

With core brands including the Java™ technology platform, the Solaris™ Operating System, the MySQL™ database management system, Sun StorageTek™ storage solutions and the UltraSPARC® processor, our network computing platforms are used by nearly every sector of society and industry, and provide the infrastructure behind some of the world’s best known search, social networking, entertainment, financial services, manufacturing, healthcare, retail, news, energy and engineering companies.

By investing in research and development, we create products and services that address the complex information technology issues facing customers today, including increasing demands for network access, bandwidth and storage. We share these innovations in order to grow communities, in turn increasing participation on the network and building new market opportunities while maintaining partnerships with some of the most innovative technology companies in the world.

For the fiscal year ended June 30, 2008, we reported net revenues of \$13.9 billion, employed approximately 34,900 employees and conducted business in over 100 countries. We were incorporated in California in February 1982, and reincorporated in Delaware in July 1987.

Our Internet address is <http://www.sun.com>. The following filings are posted to our Investor Relations web site, located at <http://www.sun.com/investors> as soon as reasonably practical after submission to the United States (U.S.) Securities and Exchange Commission (SEC): annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, the proxy statement related to our most recent annual stockholders’ meeting and any amendments to those reports or statements filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended. All such filings are available free of charge on our Investor Relations web site. We periodically webcast company announcements, product launch events and executive presentations which can be viewed via our Investor Relations web site. Additionally, we provide notifications of our material news including SEC filings, investor events, press releases and CEO blogs as part of the Official Investor Communications section of our Investor Relations web site. The contents of these web sites are not intended to be incorporated by reference into this report or in any other report or document we file and any references to these web sites are intended to be inactive textual references only.

BUSINESS STRATEGY

Our business strategy is to provide superior network computing infrastructure solutions that rely on innovation as a core differentiator. A key driver behind this strategy is the development, integration and sharing of our software, microprocessors, storage, services and systems in order to grow communities of developers and users around the world, while increasing participation on the network and building new markets for our solutions. We intend to continue to invest in this model, with a focus on the development and delivery of leading-edge, energy-efficient network computing products based upon our latest innovations.

With a strong commitment to open standards, open interfaces and the open source community, we believe sharing and collaboration is key to our long-term success. We focus on creating communities and sharing innovations and technologies to foster global network participation and advance the use of the Internet as a social utility, driving increases in use and demand for the infrastructure to support that increased use. Our open source initiatives are intended to increase participation in software and hardware design by making our innovative hardware and software intellectual property freely available. A core premise to the success of our software business is our ability to attract innovative application developers to our Java platform and Solaris Operating System. We build relationships with these communities of developers to stimulate demand for our commercial products and services. For example, more Java technology-driven devices means more demand for what we build to support those devices. Today, there are billions of Java-enabled devices in the marketplace. As more people gain access to the network, more opportunities surface for developers and businesses to deploy applications that create value, from educational institutions deploying high-performance computing grids, to banks and social networks serving millions of users. Bringing more people to the network and encouraging development of community-based intellectual property fuels greater demand for the innovative technologies and services that we create.

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Accordingly, the cornerstones of our business strategy include:

Innovation and Intellectual Property Creation. In order to maintain our position as a leading developer of enterprise and network computing solutions, we must continue to invest and innovate. A sampling of these innovations during fiscal 2008 includes the introduction of the following products:

- Our first quad-core Intel® Xeon® processor-based systems, offering advanced performance, density and expandability and an energy-efficient design.
- Our entry into the commercial silicon market with our UltraSPARC® T2 commodity microprocessor, a volume processor with 8 cores and 8 threads per core.
- Our Sun SPARC® Enterprise T5120 and T5220 servers, the first servers to use the UltraSPARC T2 processor.
- Third-generation CMT SPARC Enterprise T5140 and T5240 servers based on the UltraSPARC T2 Plus processor — an expansion of the Sun and Fujitsu SPARC Enterprise server line optimized and managed by the Solaris 10 Operating System.
- Our Sun Blade™ X8440 server module, a blade server designed for quad-core AMD Opteron™ processors.
- Our Sun Blade X8450 server module, bringing the energy-efficient performance of Quad-Core Intel Xeon processors to the Sun Blade 8000 system family.
- Our Sun Constellation and Sun StorageTek 5800 Systems, next generation open petascale computing and storage systems designed to address extreme compilation, scale and storage requirements.
- Our Sun Netra™ T5220 server, a carrier grade, 64-thread rackmount server.
- Key enhancements to the Solaris 10 Operating System, including the integration of PostgreSQL 8.2 for Solaris, new virtualization capabilities with Solaris Containers for Linux Applications, enabling customers to run existing Linux applications on x86 systems running the Solaris Operating System without modification and improved performance and power-management capabilities on AMD and Intel processors.
- Our OpenSolaris™ Operating System based on our Solaris kernel and created through community collaboration, featuring a new network-based Image Packaging System (IPS) and featuring ZFS™ as its default file system.
- Our Project Blackbox release as the Sun Modular Data center (Sun MD) S20, highlighting global demand and broad applicability of a virtualized, modular data center housed in an enhanced twenty-foot shipping container.
- Our MySQL Cluster Carrier Grade Edition 6.3, the latest version of the MySQL high-availability open source database, especially designed and certified for use in carrier grade telecom environments, such as Subscriber Data Management systems (HLR, HSS) and in Service Delivery Platforms.

Interoperability and Choice. We take a “whole system” view of the products that we deliver into the marketplace. We are uniquely qualified to integrate our microelectronics, servers, storage, software and services into eco-responsible solutions that can transform information technology (IT) into a competitive weapon for customers. Our focus on providing multi-platform implementations provides customers with greater choice for their heterogeneous environments. The Java Enterprise System is available on Linux, Windows and HP-UX platforms in addition to Solaris. Our x64 systems are available for use with Solaris, Windows, Red Hat and SuSe Linux operating systems, and our SPARC systems are available with Solaris and Ubuntu Linux. We remain committed to standards-based designs and implementations, including standards-based networking protocols and Web services that allow customers to build heterogeneous network computing environments. Interoperability gives customers choice so they can choose best-of-breed hardware and software solutions for their IT environments and lowers barriers to entry and exit.

Environmentally Responsible Products and Business Practices. Eco-responsibility is part of our overall corporate social responsibility strategy, which strives to create positive social change, minimize environmental impact and generate business. Our approach to eco-responsibility is to deliver eco-friendly products that enable sustainable computing, reduce the environmental impact of our own operations and build and share open source solutions.

We are innovating to develop products and programs that reduce energy needs and carbon dioxide production at all levels including microprocessors, servers, thin clients and computer grids. We are also reducing the environmental impact of our own operations by streamlining data center operations for maximum efficiency, choosing less harmful materials; working to recover, remanufacture or recycle products; and continuing to strive to minimize electronic waste.

In 2006, the Sun Fire™ T1000 and T2000 servers became the first servers to qualify for a local utility company rebate. Our cost control objectives are facilitated by our Open Work program, which allows employees to work wherever they need or want to — while armed with a cell phone and Internet access — which has contributed to reduced real estate costs and we believe has